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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 34th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 19 February 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)
later: Mr. NASSERI (Islamic Republic of Iran)

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* The summary record of the first part of the meeting appears as document E/CN.4/1992/SR.34.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

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(agenda item 12) (continued) (E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 30, 32, 34-37, 60, 64 and 67; E/CN.4/1992/NGO/2, 5, 10, 13, 19 and 24; E/CN.4/1991/24, 27-31, 33 and Add.1, and 34-36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

1. Mr. ROA KOURI (Cuba) said that the previous year his delegation had announced to the Commission that it would not comply with the provisions of resolution 1991/68, imposed by a slender majority comprising the United States, its allies and countries acting under pressure. For its part, his delegation had supported a draft resolution sponsored by various Latin American and non-aligned States which, in accordance with the view expressed by the Secretary-General in his 1991 report to the Commission, recommended the continuation of contacts between the Secretary-General and the Government of Cuba.

2. His delegation could not accept the appointment of a Special Representative to conduct an investigation, an action that the Commission took only when there was a consistent pattern of gross and massive violations of human rights. By no stretch of the imagination could such a state of affairs be said to exist in Cuba. The Special Representative's mandate was devoid of political and moral validity. For that reason, Cuba had not responded to his communications or extended him its cooperation. As a State which scrupulously fulfilled all its obligations as a Member of the United Nations, Cuba had no obligation to comply with demands diverging from the Commission's normal practice.

3. The report by the so-called "Special Representative" on the human rights situation in Cuba posed a curious paradox. At the outset, it conceded that, because the Representative had been unable to visit Cuba and interview Cuban citizens in their own country or to check the allegations made by private individuals and organizations against the authorities' version, part of the necessary material was mission, a fact that inevitably weakened the report and made it difficult to arrive at objective and impartial conclusions. Consequently, the Special Representative proposed to include the information supplied to him in his report, "in an objective manner and without making value judgements".

4. Yet chapter V of the report, entitled "Final remarks", not only contained value judgements, but also offered conclusions regarding the human rights situation in Cuba, and also the country's economic, social and political situation. In the light of the comments made by the Special Representative, how were the judgements and conclusions contained in the report to be interpreted? Could they be regarded as objective and impartial? Or were they tainted by the fact that, as Mr. Rivas Posada had conceded at the outset, part of the necessary material was missing?

5. The report, unlike those presented to the Commission in 1988 by Ambassador Sene and in 1991 by the Secretary-General, accepted as true statements made by individuals not living in Cuba and by organizations that had not visited it. The informants included persons who had been imprisoned in Cuba for sheltering a murderer and attempting to infiltrate CIA agents, as well as organizations offering false credentials, and others that were receiving funds from the National Endowment for Democracy, an organization which served as a front for financing defamatory campaigns against Governments regarded by the United States as "hostile", and which in 1991-1992 alone had earmarked $600,000 for anti-Cuban propaganda.

6. All the private organizations referred to in the report were noted for their hostility to the Cuban revolution, while organizations like the International Association against Torture, which had given Cuba a clean bill of health in its report to the Commission, had not even been consulted.

7. The alleged defenders of human rights who had submitted the information to which the Special Representative referred actually consisted of 21 small entities, five of which comprised a single person and 10 of which had fewer than 10 members - a total of 374 individuals who sought a return to the semi-colonial republic that had been swept away for ever on 1 January 1959.

8. The report also referred to alleged reprisals against persons who had contacted Ambassador Sene's mission in 1988. In his 1991 report, the Secretary-General had declared that issue satisfactorily resolved, having received communications on the matter from the Cuban Minister for Foreign Affairs. The existence of any such reprisals had been categorically denied on various occasions. It had, however, been made clear that persons who had contacted the Commission's mission in 1988 could not claim impunity if they broke the law, merely because they had been in contact with the mission or the secretariat.

9. Paragraph 25 of the report referred to a note sent to the Government of Cuba on 29 August 1988, containing a series of questions concerning certain constitutional and legal matters and included in annex XVI to the mission's 1988 report, to which answers by his Government had been requested. In spite of the unusual nature of the request, the Cuban authorities had agreed to provide further information on Cuba's Constitution and laws. Yet it was entirely unreasonable to require Cuba to subject its Constitution, which had been adopted in a referendum by secret ballot by a majority of over 97 per cent of citizens over the age of 16, to international scrutiny. That was a matter for the Cuban people alone. The National Assembly of People's Power was indeed currently drafting various amendments to the Constitution, to be discussed at its forthcoming session.

10. Another question tackled by the Special Representative was migration. The report acknowledged that there had been a considerable fall in the number of complaints concerning the right freely to enter and leave the country, but added that the "lack of an established emigration system" and the "limits imposed by certain countries on the granting of visas" had led to an increase in the number of people leaving the country illegally. He reminded the Special Representative that a 1990 amendment to the Migration Act established the right of any person over the age of 18 freely to leave and enter the

national territory. Needless to say, in order to do so it was necessary to be in possession of a foreign visa and of resources which, in the current circumstances, the State could provide only in cases of urgent medical need and in other cases of a humanitarian nature. In actual fact, the cause of the increase in illegal departures was the difficulty in obtaining United States visas (including visas for former counter-revolutionary prisoners and their families, who were accorded priority under the Cuban-United States migration agreement), in view of the preference accorded by the 1990 United States Immigration Act to professionals and foreigners with exceptional skills. Besides, it was well known that any person leaving the country illegally, even a thief or murderer, was welcome in the United States, regardless of immigration requirements, as a "political refugee".

11. The report's bias was even more evident in its recourse to the most aggressive assertions made by the current anti-Cuban campaign. Allegations and complaints which had not been contradicted purely because his delegation did not recognize the Special Representative's mandate were elevated to the status of truths meriting the attention of the international community - although it was acknowledged that some individual cases might have been explained by the Government of Cuba in its replies to the Sub-Commission. The Special Representative had had access to all the information provided by Cuba under the confidential procedure laid down in Economic and Social Council resolution 1503 (XLVIII). On the other hand, the non-confidential material provided by his Government to the Special Rapporteurs of the Commission and to the Chairman of the Working Group included details of all the cases referred to the Special Representative by his informants. His delegation had circulated a copy of its communications to members of the Latin American Group, and hoped that the secretariat would distribute them once they had been examined by their addressees. They contained explanations concerning all the false allegations made.

12. The Special Representative did not explain what had led him to conclude that "frequent" abuses were committed against the prison population, particularly "those detained for political reasons". Apart from the fact that no one was detained for such reasons, but only for specific breaches of the law, it should be noted that neither Ambassador Sene's mission nor participants in the congress on crime held recently in Havana had found any evidence of such abuses. Still less were there grounds for "serious fears" that psychiatric treatment for alleged offenders was being "improperly or illegally used". The latter accusation was particularly insidious in the light of the high standard of Cuba's health service, unequalled anywhere in the third world, and its doctors' high professional and ethical standards.

13. His delegation categorically rejected the allegation that there were no guarantees relating to the exercise of the rights of political participation, expression and association for those who criticized the authorities without resorting to violence. The debate at the Fourth Congress of the Communist Party of Cuba, which had included adverse criticism of various aspects of national life, proved that the reverse was true. However, criticism and disagreements as to methods should not be confused with calls to overthrow the revolution, collaboration with exiles in the service of the United States or incitement to break the law emanating from the CIA and some foreign embassies.

14. The people's role in determining its future was constantly increasing. Cuba was not the kind of democracy in which it was necessary to spend millions of dollars in order to be elected, or in which 35 per cent of citizens with the right to vote elected supposedly "representative" rulers. The representatives of people's power were elected in the constituencies, by direct and secret ballot, by more than 90 per cent of enfranchised citizens. As from 1992, not only municipal delegates, but also provincial delegates and members of the National Assembly would be elected in that way.

15. Cuba was facing a difficult situation as a result of the illegal economic, financial and trade blockade imposed by the United States and the drastic reduction in aid from the former Soviet Union. Nevertheless, it was rash to attribute to the Cuban authorities the decision to react to that situation with increased repression targeted on alleged opponents of the regime. In actual fact, Cuba had decided to respond to those difficulties with harder work, greater austerity, savings and creativity, encouragement of new programmes, development of tourism, import substitution, a broadening of non-traditional exports and a search for new markets. Those measures were an attempt to preserve as much as possible of the revolution's economic and social achievements, which had made the Cuban people's quality of life so different from that of any other country of the South. In Cuba no citizen would ever be destitute, irrespective of present and future difficulties.

16. Only by the broadest stretch of the imagination could the Special Representative's conclusions be described as "objective and impartial". The Commission's session was being attended by representatives of countries whose forces of law and order were engaged in daily and sometimes murderous suppression of protests against the high cost of living, unemployment and so-called structural adjustment measures; where paramilitary forces routinely murdered or abducted street children, beggars and drug addicts; where the army applied a scorched-earth policy against peasants and indigenous people defending their legitimate rights; or where chauvinistic and racist elements attacked third-world immigrants, destroyed their homes and indulged in neo-fascist activities. Furthermore, the members of the Commission included the United States, a country that had invaded Panama, fomented the dirty war against Nicaragua, supported Governments which, unlike his own, had violated the whole range of human rights in Central and South America, while the Commission had not raised a finger to propose the appointment of a special rapporteur or representative or even requested the most tentative investigation of those crimes and practices. Was it, then, reasonable, just and desirable to request the Commission to monitor the human rights situation in Cuba, which had, on its own initiative, invited a mission of the Commission to observe the situation on the spot in 1988, and which continued to cooperate with the Secretary-General and representatives and organs of the Commission, including the Centre for Human Rights; the only third-world country that had managed to achieve an egalitarian society; a country which as Mr. Robert McNamara, former Pentagon Chief and former President of the World Bank had recently affirmed, had done more for the health of its people than the powerful United States did for its own citizens?

17. What yardstick was the Commission applying? A lenient one for the friends of the only remaining super-Power, and an inflexible one for those who dared to be independent and insubordinate? The Cuban revolution was not up for judgement in the present forum. His delegation would reject any attempt to discriminate against it. It would continue to cooperate with the Secretary-General, the Centre for Human Rights and other United Nations mechanisms, in fulfilment of its international undertakings, and on terms identical to those applicable to other Member States. But it would also continue to denounce the illegitimacy of any decision imposed by the United States on the international community in its irrational political vendetta against Cuba. Although its national dignity was also at stake, the issue was not just one of safeguarding its people's human rights, won after a century of epic struggle, but also its independence and sovereignty, its right to full freedom in determining its own destiny. Those who were attacking it now hankered after the dependent Cuba of the past, and wished to see it restored to its former status as a banana republic. The proponents of the Cuban revolution would know how to defend their gains, freedom and independence. They were not suicidal fanatics. They loved life above all else, had struggled and would continue to struggle to make it more beautiful and just. Not for them the path of retreat and submission, or "flexibility", as some liked to call it: they would never abandon their struggle to be free, sovereign, socialist and independent.

18. Mr. ANSARI (Pakistan) said that, despite the success of the efforts made by United Nations bodies and non-governmental organizations, human rights continued to be trampled on in some parts of the world. He wished to draw the Commission's attention to the gross violations of human rights taking place in Indian-occupied Kashmir, which, ironically, were being perpetrated by the security forces of the country that claimed to be the world's largest democracy.

19. Kashmir had been under siege since January 1990, when Indian security forces had launched a bloody crackdown to suppress the Kashmiri movement for self-determination. Since then, massive violations of human rights had been a daily occurrence. Dusk-to-dawn curfews were imposed on entire cities; indiscriminate killings, mass arrests, women raped in front of their families, looting and arson had become a routine affair. Tens of thousands of Kashmiris had lost their lives, while others were subjected to degrading questioning, searches and beatings. There was an acute shortage of basic necessities and essential services, and no medicines were available. Physical evidence of the abuses by security forces was visible throughout the territory. Yet that repression had not daunted the people of Jammu and Kashmir in their legitimate aspiration to achieve self-determination. On the contrary, the struggle had intensified.

20. Those human rights violations had been well documented by international journalists and by human rights organizations, including organizations in India. Four Indian human rights organizations, the People's Union for Civil Liberties (PUCL), Citizens for Democracy, the Radical Humanist Association and the Manav Ekta Abhiyan had appointed an eight-member team to assess the situation in Indian-held Kashmir. The group had visited Kashmir in 1990, and its report testified to the human rights violations committed by Indian

security forces. In March 1990, the Committee for Initiative on Kashmir, a New Delhi-based human rights body, had published a report on State repression in Kashmir, highlighting atrocities perpetrated by the security forces and focusing attention on the role of Jagmohan, the former State Governor, in terrorizing the population. A seven-member team of the Indian People's Front had also visited the Kashmir Valley from 17 to 22 June 1990, and on its return had published revelations of human rights violations by security forces in the territory.

21. Turning to international coverage, he drew attention to the fact that India had banned foreign journalists and humanitarian organizations from entering the territory of Jammu and Kashmir. Nevertheless, some international journalists and human rights activists had managed to slip through and had returned with tales of terror which had been reported in the international press. Two volumes of extracts from those reports had been published, and were available for reference.

22. Further reports by independent journalists and human rights activists revealed continuing gross violations of human rights. Barbara Crossette, the Asia correspondent of The New York Times, had cited the United States Amnesty International chief as identifying India as a country that violated human rights with impunity. She herself had visited Indian-occupied Kashmir, and confirmed that the use of force by the occupying forces had totally alienated the Kashmiris from India. Lord Avebury, Chairman of the Human Rights Committee of the United Kingdom Parliament, had observed that the question of Kashmir was one of unfinished decolonization and should be brought before the General Assembly. Amnesty International's 1990 and 1991 reports had dealt at length with the situation in Kashmir, alleging widespread torture and rape by members of the security forces, especially during house-to-house searches. The 28 January 1992 issue of Le Monde contained an article on "the forgotten bloodbath in Kashmir", detailing the miserable plight of the Kashmiri people.

23. The Indian authorities were refusing to recognize the underlying realities of the situation in Jammu and Kashmir, which they were presenting as a law-and-order problem created by the assistance afforded to the Kashmiri people by Pakistan. That was a blatant lie. Everyone knew that India had unleashed a reign of terror in Kashmir so as to suppress the legitimate demand of the Kashmiris for self-determination and prevent the holding of a United Nations-sponsored plebiscite as provided for in the resolutions of the Security Council. History proved, however, that no nation could successfully subjugate another nation, as was evidenced by the recent developments in Eastern Europe and Central Asia.

24. The people of Kashmir were calling upon the international community, and in particular the Commission, for help. The Commission must send a fact-finding mission to ascertain the true situation in the territory. For its part, Pakistan sought amity and understanding with India, which was in the interest of both parties. It had spared no effort to promote normalization of relations between the two countries. But at the same time, it could not refrain from protesting at the gross violation of human rights in Kashmir. Furthermore, it was a party to the Kashmir problem, as had been recognized by the Security Council.

25. Time did not permit him to comment on the many other issues to be considered under item 12. With regard to Cyprus, however, his delegation took the view that a solution to the Cyprus question could be achieved through talks between the Greek and Turkish Cypriot communities on the basis of equality. Pakistan supported Security Council resolution 649 (1990) on that issue.

26. Mr. BLACKWELL (United States of America), echoing words of the United States poet, Robert Frost, said that a nation which disdained the importance of human rights had nothing to look backward to with pride and nothing to look forward to with hope. Commitment to the principles enshrined in the Universal Declaration established a nation's essential civilization, and its claim to the allegiance of its citizens.

27. In the view of his country, such individual rights as freedom of speech and of religion came not from the generosity of the State, but from the hand of God. Respect for those rights did justice not only to the innate desire of humankind to control its own spiritual destiny, but also the drive to grow and prosper. Human rights were indeed a precondition of development, as well as of individual expression.

28. Whenever the rights of any were denied, the rights of all were threatened. Individuals as well as nations bore responsibility for vigilance in that respect; and the Commission must do more than unveil the dark secrets that some countries would prefer to hide: it must seek out the most serious violators of human rights and call them to account.

29. Abuses persisted in some parts of the world, but a number of significant achievements and positive trends were also to be noted. For example, Argentina had made major strides in restoring democracy and liberty and promoting economic development, and the process of reconciliation was well under way in Chile, where a democratic Government was in place.

30. Over the past year, sweeping changes had occurred in Russia, Ukraine, Belarus and the other republics formerly forming part of the Soviet Union. Those events - like the previous transformations in Hungary, Poland, Czechoslovakia, Bulgaria, Romania and Albania - augured well for human rights and fundamental freedoms. His country stood ready to provide whatever advice or technical assistance they might request.

31. Significant democratic trends had been noted in Benin and Zambia and his Government hoped that continued improvements in respect for human rights would take place there as well.

32. Angola, Ethiopia and El Salvador were emerging from extended periods of intense civil war. There was reason for substantial optimism and his country looked forward to improved respect for human rights in the years to come.

33. He regretted that in other areas of the world there were reasons for concern. On 29 January 1992, he had outlined his country's views on the violation of human rights in the occupied Arab territories, including Palestine, and highlighted its hopes for a comprehensive and enduring peace in

the region, together with the belief that respect for the human rights of all individuals was important for its own sake and would make a positive contribution to the negotiations.

34. On 3 February 1992, he had spoken of the need to continue the irreversible process of sweeping changes in South Africa in order to complete the total dismantling of apartheid and correct other human right problems.

35. In Haiti, a democratically elected Government had been overthrown by a military mutiny on 29 September 1991. Constitutional order had not yet been restored, despite the urgings of the General Assembly and active negotiations by the Organization of American States. Arbitrary arrest and detention continued to be among the most persistent human rights violations in Haiti.

36. In the Sudan, the ongoing civil war had produced many civilian casualties and been associated with Government repression of the freedoms of speech, press and assembly and political choice. Government authorities had resorted to arbitrary arrest, detention without charge, and unfair trials of civilians in military courts.

37. The cold war had ended, but the civil conflict in Afghanistan remained unresolved. Five million Afghans had become refugees, primarily in Pakistan and Iran; another 1 million had been displaced within the country. Despite some largely cosmetic reforms in the legislation, the regime continued to restrict virtually all the main categories of human rights.

38. The citizens of Zaire continued to be subjected to arbitrary detention and physical mistreatment.

39. The United States welcomed the decision of the Government of Indonesia to investigate the 12 November incident in East Timor. It noted that the Indonesian Government had committed itself to imposing appropriate disciplinary measures on security personnel who had used excessive force and that it had promised to take steps to prevent a recurrence of such incidents.

40. In the context of recent hostilities in Yugoslavia, the various combatants appeared to have carried out many atrocities and other violations of human rights and fundamental freedoms. His delegation supported the ongoing efforts of the United Nations and the European Community to bring about a peaceful solution.

41. The Government of Cuba had flouted the will of the international community by refusing to cooperate with the Secretary-General's Special Representative. That Government sharply restricted all basic human rights, including the rights to freedom of expression, association, assembly and movement as well as the right of citizens to change their Government. As recently as November 1991, the Cuban authorities had unleashed a wave of repression against human rights activists, a condition that the international community could not tolerate.

42. The Iraqi regime had continued its systematic violation of virtually all categories of human rights, and political killings remained pervasive. The execution of perceived opponents had been particularly notable the previous spring, during the efforts of Iraqi military and security services to suppress the popular uprising in the south and the north.

43. There was also no doubt that serious violations of human rights persisted in Iran, but the Government made an intense effort to conceal its real record of abuses and to persuade the international community that the situation had improved. His delegation had no reason to believe that; there was much evidence to the contrary.

44. In the Democratic People's Republic of Korea, the security apparatus was arbitrary and harsh, and human rights violations were routine.

45. In China, more than 1 billion people lived under a Government that continued to punish its citizens for the non-violent expression of their political and religious beliefs. Two years after the suppression in Tiananmen Square, hundreds of people remained in prison and re-education camps for daring to assemble in a public place to support democracy and personal freedom. The trials that had taken place had ignored the right of due process stipulated in the Chinese Constitution. His delegation called on the Chinese leadership to free those brave individuals who had demonstrated peacefully for their beliefs.

46. In Myanmar, the ruling military dictatorship had continued to negate the right of the people to change their Government by failing to implement the results of the 1990 elections. Torture, arbitrary detention and compulsory labour were examples of the brutal repression of human rights that existed in Myanmar. In resolution 46/132, the General Assembly had expressed concern about the grave human rights situation in that country and the need for an early improvement. His delegation was convinced that the Commission should do likewise and take strong and effective action on behalf of the people of Myanmar.

47. Despite the abuses he had described, it was his Government's firm conviction that freedom was advancing all over the globe and that a new age was dawning in which democracy and human rights would predominate. However, the Commission should exercise caution because despite the growth of democracy and liberty, there would always be a struggle against those who would subvert democracy whether from the right or the left. For those fortunate enough to live in democracies, there would always be a challenge to maintain and nourish the liberties they enjoyed.

48. Mr. Nasseri (Islamic Republic of Iran) took the Chair.

49. Mr. AL-SABAH (Observer for Kuwait) said that one year previously Kuwait had been occupied by Iraqi forces while the Government had been forced into exile and the Kuwaiti people dispersed within the country and abroad. At that time, he had appealed to the Commission to press the Iraqi authorities to stop violating human rights and fundamental freedoms in his country. The Commission had adopted a resolution denouncing the Iraqi violations and had appointed a Special Rapporteur to investigate the human rights violations committed in occupied Kuwait.

50. On 26 February 1991, Kuwait had been freed from the Iraqi enemy; the Kuwaiti people had returned to their homeland and the official Government had regained the reins of power. The world had witnessed the great physical and psychological harm inflicted on the Kuwaiti people and the damage done to the country's general infrastucture.

51. It was clear from the report of the Special Rapporteur (E/CN.4/1992/26) that the violation of human rights in Kuwait under Iraqi occupation had been a deliberate and consistent policy followed by the Iraqi authorities. Those responsible had had a long experience in violating human rights and the Iraqi authorities had practised those violations against the Iraqi people prior to inflicting them on the Kuwaiti people. In that connection, he referred to the statement in paragraph 140 of the report to the effect that "Reports and other information available to the Special Rapporteur demonstrate a pattern of deliberate and grave violations of the right to life". The Special Rapporteur added, in paragraph 184, that Iraq might have violated its obligation, under article 27 of the Fourth Geneva Convention to protect women "against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault". In paragraphs 180 and 200 of his report, the Special Rapporteur drew attention to other serious human rights violations committed by the Iraqi occupying forces.

52. During the occupation, Iraqi forces had subjected the Kuwaiti people to all kinds of oppression and terrorism. A new type of abuse practised during the last days of occupation was environmental terrorism, whereby the occupation forces had ignited and demolished Kuwaiti oil wells, polluted the Gulf waters with oil and planted mines.

53. Kuwait was proud to report at the present time that the fires in 730 wells had quickly been extinguished. However, there were still millions of mines and unexploded ordinance spread throughout Kuwait, which represented a dangerous threat to the environment and a source of ongoing suffering for the Kuwaiti people.

54. Iraq was internationally responsible for the violations of human rights and the damage inflicted on Kuwait during the occupation and his Government therefore strongly supported the Special Rapporteur's recommendation that all States concerned should conduct proceedings against individuals responsible for grave breaches of humanitarian norms by the Iraqi occupying forces.

55. Following the liberation of Kuwait, Kuwaiti forces, with the assistance of the international allied forces, had entered their homeland together with observers for humanitarian organizations, such as the International Committee of the Red Cross (ICRC), and a great number of journalists. They had found an exhausted nation which the Iraqi enemy had tried to humiliate. The world had watched as the Kuwaiti people revealed their happiness and relief. Tears had expressed victory and happiness as families were reunited. As well as the desire for revenge from the enemy and its collaborators.

56. During the period immediately following liberation, isolated violations of human rights had been committed by individuals under severe psychological pressure. At the same time, Kuwaiti inspection points had been attacked by infiltrators planted by the Iraqi authorities and many Kuwaiti security

personnel had died. At that time, the official Government had not been in a position to master the situation. It was clear that the Iraqi authorities were directly responsible for all those events, since without the Iraqi invasion and occupation, security would have prevailed in a country known as a peaceful and stable one. Upon regaining power, the Kuwaiti Government had promised to punish all those who had collaborated with the Iraqi enemy according to Kuwaiti laws. The Kuwaiti system had dealt with the cases before it and had found some people innocent and others guilty. In an act of clemency, all death sentences handed down by courts had been commuted to life imprisonment. In that connection, he said that in countries where the death penalty was applicable, there had never been a period when collaborators who had helped to kill, torture and disperse the people had not been sentenced to death.

57. Kuwait had signed an agreement with ICRC under which the humanitarian organization would open a regional office in Kuwait City. Kuwait was dealing with all issues related to refugees and migrants with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Immigration. Censorship had been abolished in January 1992 in respect of such human rights as the freedom of opinion and expression, and free and fair parliamentary elections were to be held in October 1992.

58. The issue of Kuwaiti war prisoners, missing persons of third countries and those still detained in Iraqi prisons remained a challenge to the international community. The Security Council had repeatedly urged the Iraqi authorities to release those prisoners immediately and to implement the relevant articles of the Third and Fourth Geneva Conventions.

59. The Special Rapporteur had exerted great efforts to investigate the situation of prisoners and missing persons. It was clear from part IV of his report that the Iraqi authorities had violated human rights in areas mentioned in the International Covenant on Civil and Political Rights. Iraq had failed to inform families about the whereabouts of persons arrested in Kuwait or to give arrested persons the right to contact their families; to provide information about sentences imposed on prisoners of war and civilian detainees; and to issue death certificates for deceased prisoners of war and civilian internees.

60. In his report, the Special Rapporteur highlighted different methods of torture practised against prisoners during the period of occupation. While the Special Rapporteur had dealt with the torture issue within the limits of the information available to him, he had not reported on the situation of the prisoners of war and detainees in Iraqi prisons and camps, which the Kuwaiti delegation understood was beyond the scope of his mandate. However, it fell within the mandate of the Special Rapporteur on violations of human rights in Iraq.

61. The Kuwaiti people would never fully enjoy the liberation of their country until the prisoners held by Iraq and other missing persons returned to their homeland. The Iraqi authorities refused to recognize those prisoners and rejected collaboration with ICRC and the allied countries. No success had

been achieved from meetings with the representatives of the Iraqi authorities. It was to be hoped that pressure by the Commission on the Iraqi authorities would be effective.

62. Mr. AL-THANI (Observer for Qatar) said that at the beginning of the previous year, the world had hoped that Iraq would come to its senses and implement the Security Council resolutions calling on it to withdraw from Kuwait. The Qatari armed forces had had the honour of helping to liberate Kuwait and to put an end to the suffering of the Kuwaiti people.

63. In the light of the reports in the mass media concerning the aggression and inhuman acts committed by the Iraqi occupier, the Commission had adopted resolution 1991/67, in which it had requested the Chairman to appoint a Special Rapporteur with a mandate to examine the human rights violations committed in occupied Kuwait by the invading and occupying forces of Iraq. His delegation commended the Special Rapporteur on his report (E/CN.4/1992/26), which indicated that the invading Iraqi forces had flagrantly violated all international covenants and agreements.

64. The violations by the Iraqi aggressors had been committed against Kuwaitis and non-Kuwaitis alike. The Special Rapporteur stated in paragraph 100 of his report that he had received extensive information regarding torture and cruel, inhuman and degrading treatment by Iraqi occupying forces. He indicated in paragraph 143 that hundreds of persons had lost their lives as a consequence of executions and other actions of the Iraqi occupying forces inconsistent with the right to life protected by article 6 of the International Covenant on Civil and Political Rights and the corresponding guarantees under the law of armed conflict, including common article 3 of the four 1949 Geneva Conventions. However, the death toll might be considerably higher if the persons reportedly arrested by the Iraqi occupying forces included other victims of violations of the right to life.

65. Attention should also be drawn to the economic and social situation of the Kuwaitis under Iraqi occupation. In that connection, he referred to paragraph 188 of the report and said that, contrary to article 56 of the Fourth Geneva Convention, the Iraqi forces had sought to intimidate medical personnel of all categories and had dismantled medical and hospital establishments.

66. Referring to paragraph 224 of the report, he said that the Iraqi authorities had not respected their obligation under the Fourth Geneva Convention and had dismantled and pillaged public and private property.

67. A serious problem that remained to be dealt with was the question of missing persons. In that connection, he referred to the statement in paragraph 144 of the report that international practice and doctrine had categorized disappearances as a crime against humanity. Therefore, his delegation found it difficult to understand Iraq's refusal to provide information about those persons, particularly since many of them were known to have been deported to Iraq, where they had disappeared. Under international law, Iraq was bound to provide information about all Kuwaitis and

third-country nationals who had been arrested and transferred to Iraq and who were still alive so that they could return to their homes. Iraq was also bound to provide information on persons who had died while in detention during the occupation.

68. Ms. DILLER (International Human Rights Law Group) said that her organization was greatly encouraged by the significant efforts being made in a growing number of countries to protect and promote human rights. There were persistent and grave human rights conditions elsewhere, however, which required the Commission's careful attention and strong action. In Myanmar, the judicial and legal protection necessary to secure the right to life, liberty and security of person were either non-existent or severely compromised. Over the past year, the situation of human rights in Myanmar had worsened under the martial law rule of the State Law and Order Restoration Council (SLORC). Despite its assurances to the international community, that body refused to establish a schedule for relinquishing power to the duly elected civilian government and continued to stifle the call of citizens for representative government in central Burma and the outlying areas.

69. By the end of 1991, the Myanmar Government's brutal suppression of political opposition had resulted in the detention of at least 64 elected parliamentarians and the death of at least two others in custody. More than 20 other elected representatives had fled the country. In August 1991 the law under which Aung San Suu Kyi, the Nobel Peace Prize winner and former General Secretary of the National League for Democracy, had been held under house arrest, had been revised to increase the period of detention without trial from three to five years. The sentences of certain members of the National League for Democracy Party had likewise been arbitrarily doubled. Hundreds of university students demonstrating peacefully in support of democracy in December 1991 had been arrested and at least 100 sentenced by military tribunals. In SLORC's war against ethnic insurgent groups, there had been widespread abuses of civilians, hundreds of thousands of whom had been uprooted. The army's tactics had included aerial bombardment of civilian areas, systematic destruction of villages, forced relocation programmes and forced porterage. The Burmese army was reported to be abducting men, women and children to carry supplies and serve as human shields against hostile fire.

70. More than 100,000 Burmese were estimated to have been forced out of their country by persecution and civil war. An army campaign in the western State of Arakhan had reportedly led to a flow of at least 40,000 Arakhanese Muslim refugees into Bangladesh, some of whom had given eye-witness accounts of mass arrests, forced porterage, torture, systematic rape and extrajudicial executions. Such acts violated the most fundamental rights recognized by the Universal Declaration of Human Rights and customary international law. In November 1991, the United Nations General Assembly had condemned the regime's human rights record. The International Human Rights Law Group urged the Commission to appoint a special rapporteur under Economic and Social Council resolution 1235 (XLII) to examine the human rights situation in Myanmar and report to the Commission at its forty-ninth session.

71. Since the ending of the Gulf war and the popular uprisings in southern and northern Iraq in March 1991, there had been increased evidence of a pattern of grave and massive violations of human rights committed by the Government of Iraq against its citizens. Such practices were amply described in the excellent report of the Special Rapporteur (E/CN.4/1992/31), which confirmed that the Government of Iraq had taken no steps to ensure that there would be no further violations. Kurds and Shiites, in particular, had suffered extensively. The Iraqi authorities had expelled hundreds of thousands of rural Kurds from their villages, forced them into camps and cities and destroyed more than 3,900 villages. In the late 1980s, the Iraqi Government had attacked Kurdish civilians with poison gas. Thousands had been killed and those who had disappeared remained unaccounted for. The Government had imposed a tight economic blockade on the north, leaving much of the population to face winter in dire need.

72. The Shiites in southern Iraq had been similarly persecuted. In March 1991, the Government had crushed their uprising with large-scale massacres of the civilian population. By the end of March 1991, thousand of Shiites had been arrested and thousands more extrajudicially executed. More than a decade earlier, some 100,000 to 500,000 Shiites had been expelled to Iran and stripped of their possessions, and thousands deemed insufficiently loyal had been subjected to systematic arrest, arbitrary detention and extrajudicial execution.

73. At its forty-seventh session, immediately preceding the March uprising and the Government's violent response, the Commission had urged the Government to put an end to its abusive practices. It was now clear that the appointment of a Special Rapporteur was not enough. A team of human rights monitors should be sent to Iraq as soon as possible to operate there under the terms proposed by the Special Rapporteur until the human rights situation improved dramatically.

74. In Guatemala, in response to international monitoring and pressure, the Government had made more serious attempts over the past year to prosecute the perpetrators of human rights violations, but there was still a situation of gross human rights violations. As reported by Mr. Tomuschat, the independent Expert, Guatemalan society continued to be dominated by fear. Members of the army, police and civil patrols were responsible for many of the crimes committed. Despite some efforts to prosecute violators, full investigation and prosecution was still lacking. A case in point was the murder of José Miguel Merida, a policeman in charge of the investigation into the murder of Myrna Mack, an antropologist. There were reliable reports of death threats and surveillance against those in the Attorney-General's Office dealing with the Mack case and against two journalists carrying out investigations. The Government of Guatemala had failed to protect human rights monitors and had sought to discredit some of them as subversive. Several had been assassinated during the past year. The International Human Rights Law Group welcomed the Expert's recommendation that civil patrols should be abolished immediately, and it urged the Commission to appoint a special rapporteur under agenda item 12 to examine the human rights situation in Guatemala and submit an interim report for transmission to the General Assembly at its forty-seventh session and report to the Commission at its forty-ninth session.

75. Ms. KOUWENBERG (Women's International League for Peace and Freedom) said that her organization had been concerned about the situation in East Timor for many years. She had been there from 15 October to 13 November 1991 and had found the situation extremely distressing. On the eve of the massacre that had taken place there she had spoken to Mr. Kooijmans, the Special Rapporteur on Torture, at the suggestion of an East Timorese person, since the people dared not approach him for fear of reprisals by the Indonesian army. She had given the Special Rapporteur specific examples to illustrate the situation in a country in which people feared daily for their well-being and their lives. Among those examples was the case of a boy of 16 whom she had met with his terrified father, who had told her how the boy and two of his friends had been taken in the middle of the night by the military, who had threatened to cut off their ears. Although they had not done so, the boy had a wound down more than half of his left ear, and his friend had had a similar experience. A priest to whom she had spoken had told her that he regularly met people who had suffered similar experiences. The previous week she had seen an extremely nervous young man who was hiding from the military following the killing by the army of a young Timorese whom he was convinced had been murdered as part of a clean-up operation that was likely to involve hundreds of others in similar circumstances. She and her husband, who had travelled to several places in the country, had been stopped at military checkpoints immediately outside the capital and questioned by police or the military in every town and village they had visited. There had been military convoys everywhere. They had seen armed soldiers in the smallest hamlets, crowded market places and deserted mountain roads. When they had tried to photograph a traditional house, two soldiers had immediately prevented them from doing so and the friendly inhabitants had become terrified. It had been impossible to talk to people apart from those of Indonesian background from Bali, Lombok, Sumatra and Java, who had been eager to talk and accompany them. A 16-year-old girl in Dili had told her that teachers and pupils at her school had been threatened by an Indonesian official that if anyone dared to approach the expected international delegation they would be taken to Taci Tolu, where a mass grave had already been dug for them and where extrajudicial killings had taken place in the past. She had heard that similar threats had been made at meetings in market places and work places around the country. When it had become clear that the long-awaited United Nations/Portuguese delegation was not coming, an elderly woman had told her that the East Timorese people were now terrified because many of them had taken risks in preparing for its arrival, which they had viewed as an opportunity to demonstrate their suffering to the outside world, and as a genuine indication that Portugal and the international community were finally prepared to initiate a process of peaceful negotiation. The woman had told her that Indonesian intelligence had compiled a death list of all those suspected of involvement in "anti-Indonesian activities".

76. In view of the distressing nature of all that she had seen during her visit, she was extremely concerned at the suggestion that the situation in East Timor had returned to normal. The day after the massacre, she had seen wounded people and desperate mothers searching for their children. They had repeatedly begged her to tell the world of their suffering and to urge the United Nations to help them in their desperate situation. They were convinced that their safety could be guaranteed only by a permanent presence of the

United Nations to monitor the situation, and they had stressed that the massacre at the cemetery had not been an isolated incident but was part of a consistent policy of oppression.

77. There appeared to have been no improvement at all in the situation in East Timor. Two Australian women who had just returned from there had said that over 100 people were under arrest in Dili, that anyone they spoke to would be arrested and that more people were being dragged out of their homes and arrested every day. The people of East Timor were in urgent need of assistance.

78. The Indonesian bishops had stated that in order to settle the East Timorese problem, it was imperative to give full attention to those people's feelings.

79. She dedicated her statement to all the women of East Timor.

80. Ms. MARKS (Women's International League for Peace and Freedom) said that her organization was also concerned about the worsening situation of human rights in Guatemala. It urged the Commission to place the question of Guatemala under item 12 of its agenda and to appoint a special rapporteur to investigate abuses and protect human rights there.

81. The League also wished to draw attention to the violations of human rights taking place in the Islamic Republic of Iran, and particularly to the situation of women in that country. Under canon law, the age of puberty for girls was nine years and that had given rise to exploitation and slavery-like practices. It had been reported that people in the poorest sector of Iranian society were encouraged to marry off their daughters when very young in exchange for money. That situation had been reflected in the report of the Special Representative of 13 February 1991.

82. Women in general in Iran were humiliated, scorned and deprived of the most basic human rights. Under Iranian law, women could show no more than their faces and hands and those not complying with that stipulation would face 74 lashes. Many women had been arrested as a result.

83. The most tragic suppression was directed at prisoners of conscience, including many women prisoners, who had been executed by the Iranian regime. Most of those sentenced to death were allegedly humiliated and tortured before execution. In his report, Mr. Galindo Pohl had stated that it had been alleged that a virgin woman condemned to death was subjected to forced matrimony and deflowered prior to execution. The Special Representative had added that the Commission's Special Rapporteur on the question of torture considered rape as a form of torture.

84. Mr. PINTO LEITE (Liberation) said that the Kingdom of Bhutan had been characterized by a consistent pattern of gross violations of human rights for many years. Because of the persistence of an absolute monarchy, the absence of a written constitution or bill of rights and the absence of an independent judiciary, the people had been denied their basic human rights, including the right to political participation in the governance of the country. Political

parties, unions and associations were banned or discouraged and criticism of the King and his family rule could result in the imposition of the death penalty.

85. Following the introduction of the Citizenship Act in 1985 and "Bhutanization" in 1989, repression had increased, particularly in southern Bhutan, because of popular resistance in favour of democracy and human rights. There were reports of mass arrests, arbitrary detention, torture, extrajudicial killings and disappearances, gang rapes and mistreatment of prisoners. The people of Bhutan had thus been forced to leave their country for India or Nepal. More than 45,000 refugees were living in poor and inhuman conditions for lack of adequate relief services.

86. In Indonesia, violations of human rights had been persistent and systematic. In occupied East Timor, the Santa Cruz massacre of 12 November 1991 had been justly condemned, but until that time the massacres practised by the Indonesian regime had gone largely unnoticed. The current Indonesian Government had come to power in 1965 following a frenzy of killings. Between half a million and one million alleged Communists had been killed in one of the worst crimes of the century, yet the Indonesian Government had been spared international criticism and the new regime had been supported by the Western Powers. Indonesia was ruled by one of the world's longest-serving dictators, who had maintained power with the support of an oppressive military security apparatus.

87. In 1983/1984, there had been death-squad killings throughout the major cities of Indonesia which the authorities had justified as a way of combating petty criminals. Although no one in Indonesia dared to say so publicly, everyone knew that they were the work of the security forces, and the President had assumed personal responsibility in his autobiography many years later. The policy of "shoot to kill" was still a common practice. In September 1984, people had been shot in cold blood during a peaceful Muslim demonstration in Jakarta, and in 1984 troops had also opened fire on peaceful demonstrators, pursued wounded survivors, loaded the corpses into trucks and taken them to secret burial places. As in Dili in November 1991, no one had been able to verify the number of deaths.

88. In 1987, a youth demonstration in Ujung Pandang against the wearing of helmets had produced further casualties at the hands of the police, and in 1989, dozens of innocent villagers in South Sumatra accused of plotting against the State had been killed.

89. The latest premeditated mass killings in the ongoing campaign by the army had taken place in Aceh in North Sumatra, where the human rights situation had steadily worsened since 1990. Extrajudicial executions had been taking place there for over two years. Murder squads struck at random, many people had disappeared, thousands had been arrested and tortured, there had been frequent gang rapes and many hundreds of Acehnese had fled to Malaysia. Despite persistent reports by human rights organizations and in the foreign press, the international community had so far failed to act. It was deeply regrettable that the United Nations Special Rapporteur on Torture had been refused permission to visit Aceh during his recent trip to Indonesia.

90. The international community had denounced the Dili massacre because foreign eyewitnesses had been present. For the first time in more than a quarter of a century there had been calls for an international inquiry. The National Inquiry Commission established by the Indonesian Government had no credibility since it lacked independence. The Commission on Human Rights should heed the demands of the many groups in Indonesia that had called for investigation of the massacres and killings. One of the reasons why the Commission had heard so little from the Indonesians concerned had been the Cekal, or blacklisting system, which prevented certain people from leaving or entering the country, in violation of article 13 (2) of the Universal Declaration of Human Rights. The Department of Immigration had maintained, for security reasons, a computerized list of some 17,000 persons. It was virtually impossible for former members and sympathizers of the banned Indonesian Communist Party to obtain passports, so that about 1.4 million people were subject to a blanket travel ban, constant surveillance, compulsory security checks and arbitrary orders. Cekal was now being used as a means for preventing the reading of poetry or the publishing of articles and was becoming synonymous with censorship. The Development Council of the European Community had established a direct link between development and human rights. His organization supported that move and hoped it would be consistently applied without any double standards. The apartheid regime of South Africa was a good example of coordinated isolation efforts by the international community and his organization hoped that similar policies would be applied against the Indonesian Government, with the appointment of a United Nations Special Rapporteur, an arms embargo, the ending of economic assistance and the imposition of appropriate sanctions.

91. It also urged the Commission to appoint a Special Rapporteur to investigate gross violations of human rights in Bhutan.

92. Mr. BALIAN (Human Rights Advocates) recalled that during the past four years, his organization had urged the international community to consider the increasingly violent conflicts of nationalities in the former Soviet Union, but those conflicts, had largely been ignored, thus encouraging further violations of human rights and fundamental freedoms, which had culminated in the attempted coup d'état of August 1991. The conflicts affected a series of rights ranging from the right of minorities to develop their cultural, linguistic and religious identity to the right of nationalities or peoples to self-determination, including the right to autonomy, secession and independence. With more than 100 nationalities over many arbitrarily determined borders, often subjected to mass population transfers, the risk of explosive situations should have been obvious. Since the break-up of the Soviet Union and the attainment of self-determination by some of the peoples in the republics, the international community had a new opportunity to intervene and help to solve the intensifying nationalities conflicts. The independence of the former Soviet republics had solved the conflicts between the centre and the republics, but conflicts among the republics and with disenfranchised minorities within some of them had not yet been settled, and more were inevitable. According to Mr. Shevarnadze, the former Foreign Minister, 175 nationalities-related disputes, of which 20 had escalated

into armed conflicts, had occurred in the Commonwealth of Independent States during the past four years, the most important of which were those in Nagorno-Karabakh, and South Ossetia and the dispute between the Russian Federation and Ukraine.

93. The Nagorno-Karabakh conflict illustrated his organization's concern. The province had been an autonomous province within Azerbaijan with a population of 188,000, of whom 80 per cent were Armenians. Its administrative status had encouraged the anti-Armenian pogroms in Azerbaijan. By a decision of the Communist Party leadership, Nagorno-Karabakh had been given to Azerbaijan in 1921, and that State had since pursued a policy of economic and social discrimination and political repression against the Armenians of Nagorno-Karabakh in an effort to force them out of the territory. Since the annexation, economic underdevelopment, social inequality, political repression and ethnic and religious discrimination against the Armenians had kept alive the population's goal of reunification with Armenia. Armenians had repeatedly petitioned the Azerbaijan and central Soviet authorities to redress their grievances. In 1988, when those petitions had again been ignored, they had taken to the streets in peaceful demonstrations, to which Azerbaijan had responded with anti-Armenian pogroms in February and October 1988, January 1990 and the spring of 1991. In December 1989, Armenians had unilaterally declared their enclave united with Armenia. Since then a state of virtual war had existed between Armenians and Azerbaijanis in and around Nagorno-Karabakh. The violence had resulted in well over 2,000 deaths and a mass transfer of populations between Azerbaijan and Armenia, producing more than half a million refugees. Threatened with further deportations and pogroms, the remaining Armenians in Nagorno-Karabakh had eventually resorted to armed self-defence in exercise of their inalienable right.

94. During the past six months, a number of delegations of non-governmental organizations had visited the region and concluded that grave violations of human rights, including the taking of hostages, disappearances, summary executions, torture and arbitrary detentions, had been committed by Azerbaijani troops. In addition, there had been forced deportations of the Armenian population of entire villages and there was evidence that additional deportations were planned.

95. Following the attempted coup d'état in August 1991, President Mutalibov of Azerbaijan had declared his support for the coup leaders. Shortly after the failure of the coup, Azerbaijan had proclaimed its independence, followed by the proclamation of the Nagorno-Karabakh Republic. A mediation effort by President Yeltsin of the Russian Federation and President Nazarbayev of Kazakhstan had been thwarted by Azerbaijan's intransigence.
On 26 November 1991 Azerbaijan had annulled the autonomous status of Nagorno-Karabakh and launched a massive military operation against the Armenian-inhabited villages and towns. CIS appeals to Azerbaijan to end the military operations and return to negotiations had been ignored.

96. During the past two and a half months, Stepanakert, the capital of Nagorno-Karabakh, had survived without essential food or humanitarian supplies, with little water and without electricity or heat, communications with the outside world or mass media, and with a daily deluge of rockets and

artillery shells. The poorly equipped Armenian self-defence volunteers had resisted and had sometimes regained lost villages. Nagorno-Karabakh had repeatedly appealed to the CIS, the European Community, the CSCE and the United Nations to send fact-finding missions and international peace-keeping forces with a view to ending the bloodshed and preventing an all-out Azerbaijani onslaught. The situation had recently worsened dramatically with Azerbaijan's use of weapons of mass destruction against civilian targets in Nagorno-Karabakh. Stepanakert had come under continuous bombardment for 24 hours by more than 300 missiles, which had been used to destroy the city systematically block by block. The number of casualties was impossible to determine, many still being trapped in the basement shelters of their collapsed blocks. The situation in Nagorno-Karabakh required urgent action if massacres were to be avoided.

97. He appealed to the Commission and other competent bodies to call urgently upon all parties concerned to ensure respect for human rights and to take necessary measures to settle conflicts without the use of force and economic blockade, relying instead on dialogue, negotiation and mediation in cooperation with the United Nations and other institutions such as the CSCE; to appeal to the relevant authorities fully to respect the linguistic, cultural and religious rights of minorities within their territories; to urge all parties to respect all the laws of armed conflict and particularly to end the use of weapons of mass destruction against civilian targets and to end the forced transfer of populations; to request the Centre for Human Rights to make advisory services available to all relevant authorities with a view to improving human rights conditions; to invite special rapporteurs and working groups to consider the relationship between conflicts within the trans-Caucasus republics and the violations within their respective mandates; to invite ICRC to study the humanitarian situation resulting from the conflict in Nagorno-Karabakh; to suggest to relevant organs of the United Nations that UNHCR should be invited to consider urgently any appropriate action to protect and assist the many thousands of refugees and displaced persons in the trans-Caucasus republics; and to suggest that the relevant organs of the United Nations should consider the deployment of United Nations peace-keeping forces in Nagorno-Karabakh in order to ensure the peace and security and human rights and fundamental freedoms of all the inhabitants of the region.

98. Mr. EGUIGUREN (Andean Commission of Jurists) said that the existence in all Andean nations of constitutional governments chosen through democratic elections was extremely important, but was not sufficient to ensure the adequate functioning of the institutions and peaceful coexistence of the inhabitants. In some countries of the region life itself continued to be under repeated attack. It was unfortunate that political violence and the persistent practice of summary or arbitrary executions continued to take the lives of thousands of people annually in Colombia and Peru, where armed subversion and other forms of violence had helped to create a situation in which institutional structures had deteriorated and assassination and other acts of terror were used to weaken them. In some cases, there was also violence generated by drug traffickers. Unfortunately, government responses had often been outside the norms and principles of the state of law that should always inspire action to restore public order, and had allowed

paramilitary groups to act with impunity. In Colombia, 2,895 people had been killed for political reasons in the first nine months of 1991. That was an even higher number than in 1990. It included victims of selective assassination as well as those killed in clashes between subversives and security forces. The large number of civilian victims of such confrontations (405 dead and 705 injured between January 1988 and September 1991) and the small number of casualties reported among subversives showed that civilians continued to be the main group affected and that the basic standards of international humanitarian law were not being complied with. Various Colombian human rights groups had also drawn attention to the fact that civilian populations were targeted in counter-insurgency operations on the pretext that they maintained ties with subversive groups, the victims being presented as guerrillas killed in combat. Massacres and selective assassinations had similarly been covered up.

99. A further phenomenon that had recently appeared in Colombia was that of assassinations by "social clean-up" groups, whose victims were petty thieves, drug addicts, prostitutes, homosexuals and beggars. In 1990, 267 murders of that nature had been reported but that number was probably extremely conservative since the Criminal Investigation Office in the Department of Caldas had registered 326 murders of "undesirables" in the first quarter in the city of Manizales alone.

100. The fact that violence at the hands of drug traffickers in Colombia had declined should be welcomed and the central Government should be commended on the steps it had taken. The lighter sentences imposed on those who gave themselves up and confessed their crimes had been among the important factors.

101. In Peru, violence unleashed by subversive groups, and notably the Shining Path, had taken a heavy economic and human toll. But permanent and bloody provocation which betrayed the most elementary norms of humanity could neither legitimize nor justify human rights violations and disregard for the rule of law by the Government's own counter-insurgency forces. Gestures in the direction of greater transparency with regard to summary and arbitrary executions by military or paramilitary forces were by no means enough to unravel the complex network of violence. A clear distinction must be made between the legitimate use of repression by the democratic State and repression which lay outside legal norms and violated fundamental rights, relying on the impunity that went hand in hand with weakness and inefficiency in the judicial system.

102. Against the background of political violence and internal armed conflict so detrimental to human rights in some Andean countries, there was an urgent need to reorient people's conduct towards at least a minimum of respect for humanity. But that alone would not be enough; only if the conflicts themselves were resolved would the factors that contributed to the violation of human rights diminish. Pacification was the best response to the situation in Colombia and Peru.

103. Mr. AL-JADIR (Arab Organization for Human Rights) said that, as was clearly demonstrated in the report of the Special Rapporteur and in the annual report of the Arab Organization for Human Rights, the totalitarian Iraqi regime was pursuing its flagrant and dangerous violation of human

rights and fundamental freedoms, and continuing to inflict suffering on the population. But the economic blockade imposed by the Security Council was also harming the people of Iraq, and must be lifted to permit relief work throughout the country.

104. The Horn of Africa, too, was beset with difficulties. Disturbances in Djibouti had led to the imposition of a state of emergency in September 1991, and there had been countless well-documented violations of the right to life committed by Government forces against the unarmed civilian population, which was bearing the brunt of inter-ethnic conflict and the struggle for power.

105. The fall of the earlier regime in Somalia in January 1991 had brought little improvement in the human rights situation; the country was in a state of chaos as a result of political and, more frequently, tribal disputes.

106. In northern Sudan, which had proclaimed secession in the spring of 1991, power was uneasily shared; famine and the lack of medicines, and the ensuing internal and external displacement of populations, had caused great suffering, especially among children. International and regional attempts at reconciliation and humanitarian intervention in the Sudan, in which the League of Arab States participated, had failed to put an end to the crisis; and the United Nations had been somewhat tardy in its response. The Arab Organization for Human Rights called upon all organizations, including the Organization of African Unity, to pool their efforts in seeking with all due urgency a just solution to the enormous and complex problems of that part of the world. Respect for the provisions of the International Covenant on Civil and Political Rights and the establishment of genuine multi-party democracy were essential prerequisites in that connection; attempts to provide famine relief must not be obstructed by the Sudanese authorities.

107. Lastly, he referred to the recent upsurge of Israeli terrorism in southern Lebanon, which had resulted in much suffering and loss of life, especially among women and children. The situation there called for urgent intervention by the Commission.

108. The CHAIRMAN invited any delegations wishing to do so to exercise their right of reply.

109. Mr. CHOWDHARY (India) took issue with the groundless charges levelled at his country by the representative of Pakistan. Selective and tendentious references to the State of Jammu and Kashmir, which was an integral part of India, constituted open interference in the country's internal affairs. The people of that State, like their compatriots in other parts of India, had long enjoyed periodic free and fair elections and returned freely elected governments to office. The laws provided ample safeguards against violations of human rights, even in exceptional circumstances such as those for which Pakistan was responsible.

110. Pakistan, which had emerged as the single most important base for terrorism and narco-terrorism in the subcontinent, had consciously and declaredly backed armed interference and criminal actions in Jammu and Kashmir, with the aim of thwarting the rights and subverting the freedoms of

its people. Militant activity there had been given fresh momentum by the participation of Pakistani nationals. India's neighbour had officially become a sponsor of terrorism and the springboard for subversion against its territorial integrity.

111. Against that background, the recent call for mass crossings of the Line of Control could only be described as a highly provocative and unprecedented action encouraged by the Government of Pakistan, whose Prime Minister had himself gone so far as to appeal for so-called "solidarity" with the people of Kashmir, who were spuriously claimed to be struggling for self-determination.

112. Contrary to what had been alleged by the representative of Pakistan, the Indian police and security forces were making strenuous attempts to protect the lives of innocent men, women and children in Jammu and Kashmir. Moreover, constitutional guarantees and laws ensured speedy investigation and redress in the case of mistakes. Most complaints were in fact false, concocted as a means of defaming the security forces and turning the local people against them. On the other hand, there were eye witnesses to the havoc wrought by the Pakistan-inspired terrorists.

113. He called upon the delegation of Pakistan to refrain from interventionist diatribes against India and to join in working towards amity and cooperation. The Simla Agreement, to which both Pakistan and India were committed, provided the framework for peaceful resolution of all bilateral issues.

114. Mr. ANSARI (Pakistan), exercising the right of reply, said that the previous speaker's statement had been based on a gross distortion of the facts, and was totally devoid of logic. The failure by the representative of India to express remorse over the plight of the Kashmiri people was disappointing, and the claim that Jammu and Kashmir was an integral part of India was fallacious.

115. The issue of Kashmir had been before the Security Council since 1947, and Security Council resolutions provided that the future of the disputed territory was to be decided on the basis of a free and impartial plebiscite sponsored by the United Nations. It was, moreover, a great pity that India remained blind to the writing on the wall regarding the just and democratic struggle of the Kashmiri people, who had taken to the streets in thousands to demand self-determination.

116. Attempts to blame Pakistan for the state of affairs in Kashmir conveniently and deliberately ignored well-documented reports by Indian human rights organizations, as well as the international media, the veracity of which had been demonstrated on many occasions. Unable to offer any plausible arguments in support of its own untenable stand, India had endeavoured to mask its brutalities in Kashmir by making baseless references to the internal affairs of Pakistan, conveniently forgetting the sad plight of its own minorities in Punjab, Assam and other parts of the country.

117. As impartial observers had acknowledged, the people of Kashmir had embarked on their struggle of their own free will. If there was any element of truth in India's frequent allegation that Pakistan was involved, why did it

not at once accept the proposal that the Commission on Human Rights send an intergovernmental team of neutral observers to Kashmir on a fact-finding mission?

118. Mr. PIRIZ BALLON (Uruguay), speaking in exercise of the right of reply regarding the remarks made that morning by the representative of the Latin America Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), rejected the declaration by the Inter-American Commission on Human Rights that the Uruguayan law on the expiry of the statute of limitations, approved by a popular referendum, was in breach of the American Convention on Human Rights and of the American Declaration of the Rights and Duties of Man. The Inter-American Commission's decisions did not have binding force, and its members were not infallible. Consequently, when that opinion had been delivered, his country's representative, speaking on behalf of the Government and with the approval of Parliament, the political parties and the organs of public opinion, had described the declaration as a slap in the face, and a denial of the sovereignty of the Uruguayan people, who, in a free referendum, had supported that law as the basis for national reconciliation. The law in question was fully compatible both with Uruguayan domestic law and with the country's international obligations. It also contributed to safeguarding human rights, since any attitude affecting democratic stability might compromise future respect for those rights. Uruguay had never denied the criminal nature of the violations of human rights that had taken place under the de facto regime. Furthermore, that law did not affect redress to victims of the dictatorship.

119. In short, the declaration made by the representative of Uruguay a few days previously to the effect that the international human rights conventions ratified by Uruguay constituted domestic law directly applicable by the courts, was not invalidated by an erroneous interpretation on the part of the Inter-American Commission of the legal scope and constitutional legitimacy of the law on the expiry of the statute of limitations.

120. Mr. AL-DOURI (Iraq), exercising the right of reply, referred to the remarks by the observer for Kuwait concerning the so-called question of Kuwaiti detainees in Iraq. He said that Iraq had fulfilled its obligations under paragraphs 30 and 31 of Security Council resolution 667 (1990) concerning the return of foreign citizens. It had from the outset collaborated fully with ICRC, facilitating access by its representatives to places of detention and organizing the repatriation of Kuwaiti nationals, some 3,000 of whom had, however, seen their return refused by the Kuwaiti authorities or had freely elected to remain for the time being, in Iraq, where no constraints were imposed on their movements.

121. Moreover, contrary to what was alleged by the representative of Kuwait, the Iraqi authorities had endorsed the conclusions of the meeting held with representatives of the coalition of States on 16-17 October 1991. The names of missing Kuwaiti and Saudi citizens would be published in Iraq and steps would be taken to determine their fate. Lists of places of detention and arrest were to be communicated to ICRC so that its representatives might visit

them in their search for missing persons. The Iraqi Ministry of Foreign Affairs had, on the basis of reciprocity, requested that similar steps be taken in Saudi Arabia and Kuwait, but its request had - for reasons best known to those countries - been refused.

122. On 17 December 1991, the Ministry had transmitted a memorandum to ICRC in Baghdad requesting the preparation of a comprehensive plan, to be agreed between Iraq and the coalition States for the continuation of the quest for all missing persons, in accordance with the provisions of the 1949 Geneva Convention.

123. Kuwait's refusal to accede to Iraq's request for reciprocity signified that it deemed there to be, in the matter of human rights, first-class (i.e. Kuwaiti) and second-class (i.e. Iraqi) citizens. Surely such discrimination could not but distress the Commission, while Kuwait's own good faith might also be called in question by such well-documented propaganda incidents as that where an anonymous child, who had claimed before the United States Congress to have witnessed Iraqi atrocities, had been identified as the daughter of the Kuwaiti Ambassador in Washington.

124. Mr. AL-OTHMAN (Observer for Kuwait) said that his country had already had occasion, in the context of the Security Council, to refute all Iraq's contentions on the subject of detainees. On the issue of reciprocal treatment under the 1949 Geneva Convention, he submitted that that instrument contained no relevant provisions, adding that Kuwait and the coalition States had, nevertheless, fully complied with the Convention, just as they had fully collaborated with ICRC and its representatives.

125. If, as the representative of Iraq had stated, a number of former residents of Kuwait had indeed remained in Iraq of their own free will, that was no doubt because some of them were stateless persons, whilst others were of Iraqi origin. ICRC, incidentally, was in the possession of the names and addresses of persons of Iraqi origin whom the Kuwaiti authorities had, for humanitarian reasons, permitted to remain in the country.

126. Mr. CHOWDHARY (India), again exercising the right of reply in response to the remarks by the representative of Pakistan, affirmed that whatever the provocation, human rights, fundamental freedoms and the rule of law applied as much to Jammu and Kashmir as to any other part of India; the same, alas, could not be said of those parts of Kashmir still suffering from Pakistani occupation or indeed of Pakistan itself.

127. Where true human rights and self-determination were concerned, there was no place for terrorism or the denial of the rights of others. He urged Pakistan to desist from providing aid to those responsible for outrage, and to join with India in building good-neighbourly relations within the framework of the Simla Agreement, which was so vital for peace in the region and for the prosperity of both their peoples.

128. Mr. ANSARI (Pakistan) again expressed disappointment at India's patently wrong-headed stand, which amounted to hurling defiance at the United Nations and negating the resolutions of the Security Council.

129. He again rejected as baseless and unfounded India's insistence that Pakistan was involved in the just struggle of the Kashmiri people for self-determination. Furthermore, the contention that the Simla Agreement had altered the status of Jammu and Kashmir as a disputed territory, and that Pakistan was precluded from taking up the issue at the United Nations, had no legal justification whatsoever. The Agreement in fact specifically provided that relations between the two countries should be governed by the Charter of the United Nations, made a distinction between the Line of Control and an international border and explicitly protected the position of either side, indicating that final settlement was still on the agenda. Lastly, he pointed out that Articles 34 and 35 of the Charter specifically empowered the Security Council to investigate any dispute independently or at the request of Member States. Those provisions could not be made subservient to any bilateral agreement.

The meeting rose at 9.20 p.m.